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HOUSE BILL 193

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

John A. Heaton

AN ACT

RELATING TO TAXATION; ENACTING THE TECHNOLOGY STARTUP TAX  
CREDIT ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--This act may be cited as the  
"Technology Startup Tax Credit Act".

Section 2. PURPOSE OF ACT.--It is the purpose of the  
Technology Startup Tax Credit Act to provide a favorable tax  
climate for startup technology businesses in New Mexico,  
thereby promoting increased employment and higher wages in New  
Mexico.

Section 3. DEFINITIONS.--As used in the Technology  
Startup Tax Credit Act:

A. "business" means a corporation, general  
partnership, limited partnership, limited liability company,

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1 sole proprietorship or other similar entity;

2 B. "department" means the taxation and revenue  
3 department, the secretary of taxation and revenue or any  
4 employee of the department exercising authority lawfully  
5 delegated to that employee by the secretary;

6 C. "qualified business" means a business that has  
7 made qualified expenditures for the relevant period of at least  
8 twenty percent of its total revenues for that period;

9 D. "qualified expenditure" means an expenditure by  
10 a taxpayer in connection with qualified research, but does not  
11 include any expenditure on property that is owned by a  
12 municipality or county in connection with an industrial revenue  
13 bond project or property for which the taxpayer has received  
14 any credit pursuant to the Capital Equipment Tax Credit Act,  
15 the Investment Credit Act or the Technology Jobs Tax Credit  
16 Act;

17 E. "qualified research" means research:

18 (1) that is undertaken for the purpose of  
19 discovering information:

20 (a) that is technological in nature; and  
21 (b) the application of which is intended  
22 to be useful in the development of a new or improved business  
23 component of the taxpayer; and

24 (2) in which substantially all activities  
25 constitute elements of a process of experimentation related to

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1 new or improved function, performance, reliability or quality,  
2 but not related to style, taste, cosmetic or seasonal design  
3 factors; and

4 F. "taxpayer" means a person liable for payment of  
5 any tax, a person responsible for withholding and payment or  
6 collection and payment of any tax or a person to whom an  
7 assessment has been made if the assessment remains unabated or  
8 the amount thereof has not been paid.

9 Section 4. ADMINISTRATION OF THE ACT. --The department  
10 shall administer the Technology Startup Tax Credit Act pursuant  
11 to the Tax Administration Act.

12 Section 5. CREDIT--AMOUNT--CLAIMANT. --The credit provided  
13 by the Technology Startup Tax Credit Act is an amount equal to  
14 any gross receipts taxes, compensating taxes or withholding  
15 taxes due to the state paid or payable by a taxpayer with  
16 respect to a qualified business.

17 Section 6. ELIGIBILITY REQUIREMENTS. --A taxpayer may  
18 claim a credit pursuant to the Technology Startup Tax Credit  
19 Act for a period ending fifty-nine consecutive calendar months  
20 after the first calendar month for which a claim for the credit  
21 is made, but may not claim the credit for a calendar month:

22 A. before July 2003;

23 B. that is more than fifty-nine consecutive  
24 calendar months after the first month for which a claim for the  
25 credit is made by the taxpayer or by a person to whom the

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1 taxpayer is a successor, pursuant to Section 7-1-61 NMSA 1978;

2 C. after which the qualified business employs more  
3 than fifty employees on a full-time-equivalent basis;

4 D. in a fiscal year of the qualified business after  
5 the first fiscal year in which that business has total revenues  
6 in excess of ten million dollars (\$10,000,000);

7 E. after the calendar month in which more than  
8 fifty percent of the qualified business' voting securities or  
9 other equity interests having the right to designate or elect  
10 the board of directors or other governing body of that business  
11 are owned directly or indirectly by another business; or

12 F. if the business was not a qualified business in  
13 the twelve-calendar-month period ending with that calendar  
14 month.

15 Section 7. CLAIMING THE CREDIT FOR CERTAIN TAXES. --

16 A. A taxpayer shall apply for approval of a credit  
17 pursuant to the Technology Startup Tax Credit Act within one  
18 year after the end of the calendar month for which the credit  
19 is claimed.

20 B. A taxpayer who has applied for and been granted  
21 approval for a credit pursuant to the Technology Startup Tax  
22 Credit Act may claim the amount of the credit against the  
23 taxpayer's gross receipts tax, compensating tax or withholding  
24 tax due to the state; provided that no taxpayer may claim an  
25 amount of credit for a reporting period that exceeds the sum of

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1 the taxpayer's gross receipts tax, compensating tax and  
2 withholding tax for that period.

3 C. A credit pursuant to the Technology Startup Tax  
4 Credit Act not claimed against the taxpayer's gross receipts  
5 tax, compensating tax or withholding tax due for a reporting  
6 period may be claimed in subsequent reporting periods.

7 Section 8. CREDIT CLAIM FORMS. --The department shall  
8 provide credit claim forms for the Technology Startup Tax  
9 Credit Act credit. A credit claim form shall accompany any  
10 return in which the taxpayer applies for an approved credit,  
11 and the claim shall specify the amount of credit intended to  
12 apply to each return.

13 Section 9. EFFECTIVE DATE. --The effective date of the  
14 provisions of this act is July 1, 2003.

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